

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TIMOTHY J. PERKINS,

Plaintiff,

14-CV-167(LJV)(MJR)
ORDER

v.

CAROLYN W. COLVIN,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

On November 4, 2014, the Court (Hon. Richard J. Arcara) referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings pursuant to 28 U.S.C. § 636(b)(1)(B). Docket Item 9. On November 23, 2015, this case was reassigned from Judge Arcara to the undersigned. Docket Item 15. On December 23, 2015, this case was reassigned from Magistrate Judge McCarthy to United States Magistrate Judge Michael J. Roemer for all proceedings pursuant to 28 U.S.C. § 636(b)(1)(B). Docket Item 16.

On November 3, 2014, the plaintiff moved for judgment on the pleadings. Docket Item 8. On February 1, 2015, the defendant responded to the plaintiff's motion and moved for judgment on the pleadings. Docket Item 13. And on February 23, 2015, the plaintiff responded to that motion. Docket Item 14.

On October 20, 2016, Judge Roemer issued a Report and Recommendation finding that the plaintiff's motion should be denied and that the defendant's motion should be granted. Docket Item 17. The parties did not object to the Report and

Recommendation, and the time to do so now has expired. See 28 U.S.C. 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify, in whole or in part, the findings or recommendation of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Roemer's Report and Recommendation as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Roemer's recommendation to deny the plaintiff's motion and grant the defendant's motion for judgment on the pleadings.

For the reasons stated above and in the Report and Recommendation, the plaintiff's motion for judgment on the pleadings (Docket Item 8) is DENIED; the defendant's motion for judgment on the pleadings (Docket Item 13) is GRANTED; the complaint (Docket Item 1) is dismissed; and the Clerk of the Court is instructed to close the file.

SO ORDERED.

Dated: November 28, 2016
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE